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PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER CHAN, RICHARD	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,546

Applicant(s)

CHEDELLA ET AL.

Examiner

Richard Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13, and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Chmaytelli (PCT/US01/128491).

With respect to claim 13, Chmaytelli discloses a machine readable medium having stored thereon communication software enabling, upon its execution, a programmable apparatus Fig.2 to function as a communication apparatus, comprising: a function 114 for receiving a time entry specifying at least one of the elements date and time, an address entry specifying a communication address, and a message entry; and a function for transmitting the message entry to the communication address depending

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on the time entry. [1009-1011], wherein the communication software is stored on a record carrier 212. [1014]

With respect to claim 10, Chmaytelli discloses an apparatus as claimed in claim 13, characterized in that the control unit 206 is capable of attempting transmission to the communication address several times in order to successfully complete transmission of the message. [1009]

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1-3, 5, 6, and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Chmaytelli (PCT/US01/128491) in view of Lauterbach (US 5,278,539).

With respect to claim 1, Chmaytelli discloses the communication apparatus, comprising: a transmitter capable of transmitting an electromagnetic signal; a first interface for interfacing with a first storage means 212 and a control unit 206 capable of urging the transmitter to transmit the electromagnetic signal and using the first interface to store a message entry in the first storage means 212, characterized in that: a second interface for interfacing with a second storage means 212 is present; the control unit

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206 is capable of using the second interface to store, in the second storage means 212, a time entry specifying at least one of the elements date and time, an address entry specifying a communication address, and a relation between the time entry, the address entry, and the message entry; the control unit 206 comprises an auto-dialer capable of initiating transmission of the message entry to the communication address when triggered; and a timing device is present, capable of triggering the auto-dialer in dependence upon the time entry. 1013-1014]

However the Chmaytelli reference does not specifically disclose wherein the autodialer is capable of attempting transmission to the communication address several times in order to successfully complete transmission of the message entry.

The Lauterbach reference however discloses an autodialer implemented on a calling system which implements a redial function which is able to continually trying to reach an outside line until the complete transmission entry is finally transferred.

It would have been obvious to one of ordinary skill in the art to implement a redial function as disclosed by Lauterbach to the communication apparatus as disclosed by Chmaytelli in order to continually reach a second party until the transmission has been completed.

With respect to claim 2, Chmaytelli and Lauterbach combined disclose an apparatus as claimed in claim 1, wherein that the control unit 206 uses the first interface to store an electromagnetic signal received from a microphone 204 as a message entry in the first storage means 212.

With respect to claim 3, Chmaytelli and Lauterbach combined disclose discloses an apparatus as claimed in claim 1, characterized in that it comprises an element allowing transmission to a wireless network. [1007]

With respect to claim 5, Chmaytelli and Lauterbach combined discloses an apparatus as claimed in claim 1, wherein the control unit 206 uses the second interface to store, in the second storage means 212, multiple address entries and a relation between the message entry and the multiple address entries. [1013]

With respect to claim 6, Chmaytelli and Garudadri combined discloses an apparatus as claimed in claim 5, wherein the control unit 206 uses the second interface to store, in the second storage 212 means, multiple time entries 114 and a relation between the multiple address entries and the multiple time entries. [1009]

With respect to claim 12, Chmaytelli and Lauterbach combined discloses an apparatus as claimed in claim 1, the Chmaytelli reference continues to disclose wherein a notification is generated when the transmitter has successfully completed transmission of the message. [1011]

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6. Claims 4 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chmaytelli (PCT/US01/128491) in view of Garudadri (US 6,519,479).

With respect to claim 4, Chmaytelli discloses a communication apparatus, comprising:

- a first memory 212;

- a second memory 212;

- a transmitter 214 that transmits an electromagnetic signal;

- a first interface that interfaces with the first memory;

- a second interface that interfaces with the second memory;

- a control unit 206 that:

 - signals the transmitter 214 to transmit the electromagnetic signal; [1014]

 - uses the first interface to store a message entry in the first memory 212;

and uses the first interface to store a message entry in the second memory, a time entry specifying at least one of a date and a time, an address entry specifying a communication address, and a relation between the time entry, the address communication address and a relation between the time entry, the address entry, and the message entry;[1013-1014]

 - an autodialer 206 that initiates transmission of the message entry to the communication address when triggered; and

a timing device 114 that triggers the auto-dialer to transmit the message entry to the specified communication address at the at least one of date and time specified in the time entry.[1011]

However the Chmaytelli discloses an apparatus as claimed in claim 1, however Chmaytelli does not specifically disclose wherein the transmitter is capable of transmitting a message entry with a prefix indicating that a message will follow and wherein the prefix comprises an electromagnetic signal received from a microphone.

The Garudadri reference discloses the device, wherein a user inputs by a keypad or audibly by microphone into a VR device, wherein a message will follow the prefix (Col.5 lines 35-52) and a microphone (31) wherein an audible message being input by a user is translated into a electromagnetic signal. (Col.6 lines 45-51)

It would have been obvious to one of ordinary skill in the art to implement the microphone input and VR device as disclosed by Garudadri to the apparatus of Chmaytelli in order to input audible commands by the user to the device.

With respect to claim 15, Chmaytelli and Garudadri combined discloses the apparatus according to claim 4, however does not specifically disclose wherein the apparatus includes at least one of a mobile phone or a personal digital assistant (PDA) with a wireless LAN compactFlash card, which enables wireless transmission of the message.

The Garudadri reference however discloses wherein an apparatus can use flash memory in order to store instructions to operate the device. (Col.11 line 52-65)

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It would have been obvious to one of ordinary skill in the art to implement the use of a flash card to contain the software, which allows the apparatus to function as disclosed by Garudadri with the apparatus of Chmaytelli in order provide additional software and space for the apparatus.

With respect to claim 16, Chmaytelli and Garudadri combined discloses the apparatus according to claim 4, Chmaytelli continues to disclose wherein multiple address entries specifying multiple communication addresses are associated with the message entry.[1010]

With respect to claim 17, Chmaytelli and Garudadri combined discloses the apparatus according to claim 4, Chmaytelli continues to disclose wherein multiple dates and times are associated with the message entry.

With respect to claim 18, Chmaytelli and Garudadri combined discloses the apparatus according to claim 4, Chmaytelli continues to disclose wherein multiple dates and times are associated with a given address entry.

With respect to claim 19, Chmaytelli discloses the apparatus according to claim 4, however Chmaytelli does not specifically disclose wherein the apparatus further including a speech recognizer that recognizes at least one of a date and time entry, a message entry, or address entry.

The Garudadri reference however discloses an apparatus wherein a speech recognizer, VR device which is able to interpret a users voice. (Col.6 lines 45-51)

It would have been obvious to one of ordinary skill in the art to implement a VR device that is a speech recognizer as disclosed by Garudadri to the apparatus of Chmaytelli in order to be able translate an audible signal from a user to the apparatus.

With respect to claim 20, Chmaytelli and Garudadri combined disclose the apparatus of claim 19, Garudadri further discloses wherein the apparatus is including a microphone 204 into which a user speaks to enter at least one of the time and date entry, the message entry, or the address entry.

7. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chmaytelli (PCT/US01/28491) and Lauterbach (US 5,278,539) in view of Garudadri (US 6,519,479).

With respect to claim 9, Chmaytelli and Lauterbach combined discloses an apparatus as claimed in claim 1, however Chmaytelli and Lauterbach does not specifically disclose wherein the apparatus further including a speech recognizer recognizing at least one of the entries date, address and message.

The Garudadri reference however discloses an apparatus wherein a speech recognizer, VR device which is able to interpret a users voice. (Col.6 lines 45-51)

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It would have been obvious to one of ordinary skill in the art to implement a VR device that is a speech recognizer as disclosed by Garudadri to the apparatus of Chmaytelli and Lauterbach in order to be able translate an audible signal from a user to the apparatus.

With respect to claim 11, Chmaytelli and Lauterbach combined discloses an apparatus as claimed in claim 1, however Chmaytelli and Lauterbach combined does not specifically disclose wherein the apparatus is characterized in that the control unit is capable of detecting communication with a machine and stopping transmission of the message if communication with a machine is detected.

The Garudadri reference however discloses wherein a control unit 100 is capable of detecting communication with a machine and stopping if a transmission is detected. (Col.10 lines 14-22)

It would have been obvious to one of ordinary skill in the art to implement the detection of communication between the apparatus and a secondary machine as disclosed and stopping if a transmission is detected by Garudadri to the apparatus of Chmaytelli and Lauterbach in order to allow the apparatus to stop transmission.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chan whose telephone number is (571) 272-0570. The examiner can normally be reached on Mon - Fri (9AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571)272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard Chan
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11/6/07




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